

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JANE BOUDREAU,

Case No. 07-10529

Plaintiff,

Hon. Victoria A. Roberts

v.

COUNTY OF OAKLAND,

Defendant.

ORDER ON PLAINTIFF'S MOTIONS IN LIMINE

This matter is before the Court on Plaintiff's Motion in Limine to Exclude All Testimony and Attorney Argument Whether Plaintiff Had Sexual Relations With a Co-Employee at an Out of Town Conference [Doc. 67], Motion in Limine to Exclude All Testimony and Attorney Argument About a Prior Extramarital Affair [Doc. 68], and Motion in Limine to Exclude All Testimony and Attorney Argument Regarding Results of Pre-Termination and Personnel Appeal Board Hearing [Doc. 69]. The matters were fully briefed by the parties, and the Court conducted a hearing on February 8, 2010.

For the reasons stated on the record:

The Court **GRANTS IN PART** and **DENIES IN PART** the Motion in Limine to Exclude All Testimony and Attorney Argument Whether Plaintiff Had Sexual Relations With a Co-Employee at an Out of Town Conference. The parties may introduce evidence regarding: (1) the comment made to Plaintiff's secretary, Liz Coleman, (2) questions asked during the County's investigation, and (3) the reasons why certain questions were asked. The Court excludes evidence concerning whether Plaintiff

actually had sex with Deputy Adams. Its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. See Fed. R. Evid. 403.

The Court **DENIES** the Motion in Limine to Exclude All Testimony and Attorney Argument About a Prior Extramarital Affair. The parties may introduce evidence regarding Plaintiff's 2002 extra-marital affair. However, the evidence will be limited to: (1) when the affair occurred; (2) whether the affair had connections to Plaintiff's job, or affected Plaintiff's job duties; (3); whether Plaintiff's superiors knew of the affair; (4) whether Plaintiff was disciplined as a result of the affair; and (5) whether the affair was a factor in the decision to terminate.

The Court **GRANTS** the Motion in Limine to Exclude All Testimony and Attorney Argument Regarding Results of Pre-Termination and Personnel Appeal Board Hearing. The Court excludes evidence regarding the decisions of the *Loudermill* hearing and the Personnel Appeal Board because their probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. See Fed. R. Evid. 403. The findings of these entities should not be substituted for the decision making authority of the jury. *Mitchell v. County of Wayne*, 2007 U.S. Dist. LEXIS 18549, *15, 2007 WL 850997, *5 (E.D. Mich. 2007).

IT IS ORDERED.

/s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on February 8, 2010.

s/Linda Vertriest _____
Deputy Clerk